

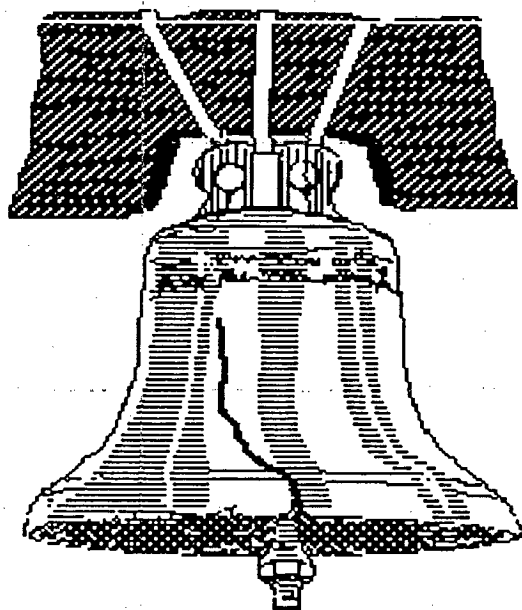
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SPECIAL ISSUE

INTELLIGENCE "LEAKS"
in the balance:

Abuse of Liberty
or
Acceptable Price of Democracy ?



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UNAUTHORIZED DISCLOSURES: RISKS, COSTS, AND RESPONSIBILITIES

by Robert M. Gates, Deputy Director of Central Intelligence

Editor's Note: In this article Dr. Gates poses the problem in a careful and balanced manner, even if not dispassionate, as no intelligence professional can fail to be affected and perplexed by the damage we do to ourselves by "leaks." Both general and specific approaches to solutions are suggested.

In recent years, U.S. foreign policy has been undercut, and the ability of American intelligence to help protect the security of the nation against our adversaries has been weakened by unauthorized disclosures of classified information. Deliberate leaks of intelligence information have jeopardized American lives, hampered U.S. effectiveness in combating terrorism and in reaching agreement with the Soviets on arms reductions, and have **required the expenditure of billions of dollars** in order to revamp or replace sophisticated technical collections systems that have been compromised. Unauthorized disclosures have damaged U.S. relationships with other intelligence services and have dissuaded potential agents from accepting the risks of working on behalf of the United States. Moreover, unauthorized disclosures are affecting the morale and effectiveness of those in the U.S. Intelligence Community.

Regrettably, some view the Intelligence Community's concern and determination to reduce the damage caused by news leaks as a threat to a free press. This is not only untrue but misses the point. It is one thing for the media to report aggressively and to comment on a wide range of foreign policy developments and issues. But it is the wanton and willful disclosure of intelligence sources, methods, and analysis by those inside government who violate their trust that must be stopped.

The government has a responsibility to use the classification system more judiciously and to enforce discipline within its own ranks more vigorously. Leaks are an "inside" problem that must be addressed, including within the Intelligence Community. **At the same time, however, it is imperative that the media recognize that it, too, has responsibilities concerning the security of our country.** The continued security and freedom of the nation is essential to the existence of a

strong, free press. It is essential that the media differentiate between the serious damage to our security through the exposure of sensitive intelligence capabilities and the media's legitimate need (1) to expose waste, fraud, and wrongdoing, as well as (2) to report on government activities so that the American public can make informed judgments about the conduct of the government's business. Admittedly, it often is a delicate and difficult balance to strike, but past experience has shown that the Intelligence Community and the press can work together without infringing on the Constitutional rights of the media. There have been a number of instances in which the press has withheld stories or written them in a way that preserved the confidentiality of intelligence sources.

To appreciate the magnitude of the unauthorized disclosure problem faced by the Intelligence Community today, one has only to understand that **the number of leaks has increased by major proportions since 1980.** In fact, almost 300 percent more confirmed leaks were recorded in 1987 than in 1980. More to the point, hundreds of leaks of classified intelligence information have been recorded since 1980. These were intelligence leaks only. There were undoubtedly many others dealing with military or diplomatic secrets. Moreover, the situation shows no signs of improvement.

While some blame Congress for the proliferation of intelligence leaks, Congress' record on keeping secrets is actually pretty good. In fact, most leaks of sensitive intelligence information originate from the Executive Branch. In a recent study, (1) Professor Elie Abel of Stanford University noted that there are **far too many government officials who believe that their status or position permits them to declassify information by giving a background interview or off-the-record statement.** Abel, a Pulitzer Prize winner and former New York Times correspondent, noted that leaks have "risen from a trickle to a torrent." Of some 500 attributed leaks we have documented since 1979, only about 25 were sourced to the Congress. The rest were from

(1) Leaking: Who Does It? Who Benefits: At What Cost? Twentieth Century Fund, October 1987.

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various Executive Branch organizations.

The properly timed leak, beyond doubt, is very effective. A leak can rally immediate support for or opposition to a policy or program. It can quickly promote personal or bureaucratic objectives or float a trial balloon. It can win favor for the leaker. The leak, therefore, is not easily surrendered by those in a position to influence policy and public opinion or by those who seek to promote themselves.

The attraction of achieving short-term personal or bureaucratic objectives perhaps blinds some leakers to the debilitating long-term consequences of their acts. Even worse, the leaker, out of ignorance or arrogance, may not know or care that sensitive intelligence sources and methods have been damaged--so long as his objectives are accomplished. Despite protestations to the contrary, "Washington sources" seem unwilling to divest themselves of this extraordinarily useful, effective and self-promoting tool.

The obvious disdain, even contempt, shown by leakers for intelligence sources and methods demonstrates a breakdown in discipline in the government. There is no law that specifically makes leaking a crime. The sobering lesson is that too many people in positions of trust are all too willing to misuse classified information, while the government is unable to implement adequate countermeasures.

Past Administrations and the Congress have looked to the Intelligence Community to resolve the unauthorized disclosure problem. The Intelligence Community has accepted this responsibility and tried to provide leadership, ideas, and resources. But because leaks have become an invaluable, virtually risk-free tool for government officials, it is understandable that the Intelligence Community has had little success.

The number of unauthorized disclosures has markedly increased in recent years, but the reasons for leaks--whether intentional or inadvertent--are the same.

First, some senior officials in the Executive Branch and some members of Congress fail to set a strong, consistent example for subordinates. They are quick to decry leaks that adversely affect them or policies they support, but they are quiescent about those that

are favorable or neutral. These officials rarely, if ever, punish or reprimand or even investigate subordinates for leaking.

Second, intelligence consumers are largely unaware of the seriousness of the damage done to national security by unauthorized disclosures. As a result, some are inclined to view disclosures of classified information as a normal and expected part of the process of policy formulation and implementation.

Third, there are no laws that effectively penalize cleared individuals for the unauthorized disclosure of classified intelligence. Leaking is viewed by many as normal and usually inconsequential, and the perception is growing that no one particularly cares. This undermines the morale of those who do care.

And finally, there are no Community-wide procedures to coordinate and authorize the declassification and release of classified intelligence to the media, a process which perhaps would help protect sources and methods. Development of effective coordination procedures would increase awareness of the disclosures problem among intelligence producers and consumers, record authorized disclosures, eliminate freelance release of classified information, and convey to the Executive Branch and Congress that the Intelligence Community is serious about disclosures.

I personally believe that new laws, even if they could be enacted, would not stop leaks. Threats and exhortation clearly do not. How many times over the years have we all said, "Boy, when we catch the guy who did this..." The polygraph is no more likely to be used widely to pursue leakers than the rack or dunking.

No, the answer, if there is one, is the slower, more mundane and frustrating process of again instilling discipline through education and developing broad support for some new process that fosters discipline while offering a way to get useful information to the public.

One approach was outlined briefly following a recent speech in Aspen, Colorado,

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by Director of Central Intelligence William Webster. He described leaks in Washington as "an indigenous art form," and advocated a simple, straightforward approach to creating a greater sense of responsibility regarding unauthorized disclosures of classified information.

Director Webster proposed that the responsibility for stopping unauthorized disclosures be placed on the heads of departments and agencies. These senior officials should develop rules and procedures that can be examined and monitored to see whether they are producing results. A few officials in each organization would be authorized to discuss national security information on the record with the media or the public. These few would have the authority to declassify.

Under the DCI's proposal, any revelation to the media of classified information by authorized officials would be entered in a permanent official record. The record would specify who received the information, the specific classified data discussed, and the reason for talking about it. The record would be kept in an official hard-copy or computerized file.

If there should be a leak, and no record of previous declassification existed, any unauthorized person found to have revealed the classified information would be held responsible for not having followed the required procedure, would have no excuse for his or her action, and would face disciplinary action, up to and including dismissal. The DCI commented that such an approach would be a giant step forward in sensitizing top officials to their responsibilities.

The DCI's informal discussion of an approach for dealing with the problem of leaks did not, of course, cover every aspect of how it would be applied. In general, those seeking to release classified intelligence information would have to obtain authorization to declassify and release it. Such authority can be obtained only from those few agencies that collect or produce intelligence. This process could be facilitated by establishing a central "clearing house" to expedite and coordinate the declassification and release of intelligence information to the media whenever it could be done without jeopardizing sources, methods, and analysis.

This approach would have the practical advantages of identifying those who are authorized to take such actions, requiring them to

go on record as having done so, and making it a prima facie security violation to have revealed classified information to the media without fulfilling the authorization and recording requirements. This would clear the way for administrative penalties to be invoked, even if legal action were not possible in each specific violation.

This approach to controlling leaks would require the cooperation of senior officials throughout the government, including Congress. Support for the proposal would show there is a serious desire to deal effectively with one of the most intractable security problems facing the U.S. Government.

Whether this or another approach is ultimately tried, there is one step we must take: we must let the American people know that damage is being done by leaks to intelligence sources and methods, the national pocketbook, and the country's ability to protect itself. The American people need to know that when government employees entrusted with intelligence secrets leak those secrets, they jeopardize the nation's freedom and security. They violate a special trust and, out of ego and arrogance, arrogate to themselves policy and intelligence decisions that rightfully belong only to the President and the statutory members and advisors of the National Security Council. Leaks cannot be stopped. But the number of leaks can be reduced and the damage they do curtailed. All of us can and must contribute new ideas to reach those goals--ideas that are politically realistic, protective of American values, and bureaucratically pragmatic.

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